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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/804,328	03/12/2001	James M. Chen	4488	1020

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EXAMINER

JOHNSON, EDWARD M

ART UNIT PAPER NUMBER

1754

DATE MAILED: 11/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

ML

<b>Advisory Action</b>	<b>Application No.</b> 09/804,328	<b>Applicant(s)</b> CHEN ET AL.	
	<b>Examiner</b> Edward M. Johnson	<b>Art Unit</b> 1754	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 06 October 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 06 October 2004. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.


Claim(s) rejected: 1-7, 10-16 and 18-21.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

Continuation of 2. NOTE: The amendment combines the subject matter of previously finally rejected claims, which along with dependencies would create new combinations of subject matter not previously claimed, which would be a new issue requiring further consideration and/or search.

Continuation of 5. does NOT place the application in condition for allowance because: It is argued that in the referenced Office Action the Examiner asserts... beta zeolite and ammonia. This is not persuasive for reasons already of record. Fetzer nowhere discloses that beta zeolite is removed from the disclosed process after stage B, as Applicant appears to suggest. Applicant points out that additional beta zeolite is not added in stage C, which is separate. This again is not persuasive for reasons of record. It is argued that Fetzer is cited as disclose the use of beta zeolites. This is not persuasive because Fetzer is cited in the §103 rejection for a disclosure of beta zeolites and ammonia is already disclosed in Riley, both of which Applicant appears to admit. It is argued that therefore, there is no disclosure or suggestion in either of Fetzer or Kato... BETA zeolite. This is not persuasive for reasons already of record. It is argued that Tsuchitani does not disclose or suggest the invention of presently amended claim 18. This is not persuasive because although Tsuchitani does not disclose beta zeolite, as Applicant correctly asserts, it is considered that it would have been obvious to one of ordinary skill in the art at the time the invention was made to use beta zeolite for reasons already of record. Applicant is correct that a §103 rejection was made over Tsuchitani.

  
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